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Tenure and Improvement of Land (Ireland).

[AS AMENDED IN COMMITTEE.]

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A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend the Law relating to the Tenure and
Improvement of Land in Ireland.

WHEREAS it is expedient that Provision should be made ^{Preamble.}
for facilitating Improvements of Landed Property in
Ireland: Be it therefore enacted by the Queen's most
Excellent Majesty, by and with the Advice and Consent of the
5 Lords Spiritual and Temporal, and Commons, in this present
Parliament assembled, and by the Authority of the same, as follows:

PREAMBLE.

I. This Act may be cited for all Purposes as "The Landed ^{Short Title}
Property (Ireland) Improvement Act, 1860."

10 II. This Act shall apply to Ireland only. ^{Application}
^{of Act.}

III. This Act shall come into operation on the Second Day of ^{Commence-}
November One thousand eight hundred and sixty. ^{ment of Act.}

IV. The Expression "the Clerk of the Peace" as herein-after ^{"Clerk of}
used shall mean the Clerk of the Peace of the County where any ^{the Peace."}
15 Lands in respect of which any Matter arises are situate, and if the
[Bill 172.] A Lands

Lands in question are situate not wholly in One County, the same Expression shall be construed to mean the Clerk of the Peace of any County where any Part of such Lands are situate, and it shall include any Deputy of any such Clerk of the Peace.

"Chairman." V. The Expression "Chairman" as herein-after used shall mean 5
the Chairman of the Quarter Sessions of the County where the
Matter requiring the Cognizance of any such Chairman arises, and
where such Matter arises in respect of Lands situate not wholly in
any One County, it shall mean the Chairman of the Quarter Sessions
of any County where any Part of such Land is situate. 10

Definition of "Settle-
ment." VI. The Word "Settlement" as herein-after used shall include any
Act of Parliament, Will, Deed, or other Assurance or connected Set
of Assurances whereby particular Estates or particular Interests in
Land are created, with Remainders or Interests expectant thereon;
and every Estate and Interest created by Appointment made in 15
exercise of any Power contained in any Settlement or derived from
any Settlement shall be considered as having been created by the
same Settlement, and an Estate or Interest by way of resulting
Use or Trust to or for the Settlor, or his Heirs, Executors, or
Administrators, shall be deemed to be an Estate or Interest under 20
the same Settlement.

PART I.

LANDLORDS IMPROVEMENTS.

Definition of "Limited
Owner." VII. The Expression "Limited Owner" as used in this Part of this
Act shall mean any Person entitled under any existing or future Settle- 25
ment at Law or in Equity, for his own Benefit and for the Term
of his own Life, to the Possession or Receipt of the Rents and
Profits of Land, whether subject or not to Incumbrances, in which
the Estate for the Time being subject to the Trusts of the Settlement
is an Estate for Two or more Lives, or for Years determinable on the 30
dropping of Two or more Lives, or is an Estate for Lives or Years
renewable for ever, or is an Estate renewable for a Term of not less
than Sixty Years, or is an Estate for a Term of Years of which not
less than Sixty are unexpired, or is a greater Estate than any of the
foregoing Estates. 35

Guardians to be deemed
Limited
Owners in
certain
Cases. VIII. Where any Limited Owner is a Minor, or of unsound Mind,
or a married Woman, the Guardian, Committee, or Husband, as the
Case may be, of such Limited Owner, may himself exercise all Powers
which such Limited Owner might exercise in pursuance of this
Act if he or she were adult, of sound Mind, or unmarried; subject to 40
this

this Proviso, that a married Woman, entitled for her separate Use, and not restrained from her Anticipation, shall for the Purposes of this Act be treated as if she were not married.

IX. The Term "Successor" as used in this Part of this Act shall
 5 mean the Person next entitled under the Settlement to the Possession
 or the Receipt of the Rents and Profits of the Lands in defeasance
 of or on the Determination of the Estate of the Limited Owner, but
 if the Place of Abode of such Person is not known, or if there is no
 such Person in existence, or if he is abroad, or an Infant, or a
 10 Lunatic, or if such Person is a married Woman not having an Estate
 that constitutes her a Limited Owner, or if it is doubtful who falls
 within the Description of the Successor, or if for any Reason it is
 found difficult or impracticable to serve the Successor, the Term
 Successor shall mean such Person, if any, as may be directed to be
 15 substituted for the Purposes of this Act for the Successor by the
 Chairman, upon an Application made to him for that Purpose by the
 Limited Owner.

X. Any Limited Owner of Land may, with the Sanction of the
 Chairman, make such Improvements thereon as are herein-after
 20 mentioned, and upon the Completion thereof shall be entitled, by way
 of Compensation for his Outlay, to an Annuity, of such Amount and
 to be charged in such Manner as is herein-after mentioned on the
 Lands on which the Improvements have been made, and any other
 Lands lying together with the first-mentioned Lands, and comprised
 25 in the same Settlement.

XI. The Word "Improvements" as used in this Part of this
 Act shall comprise the following Works; (that is to say,) Definition of
"Improvements."
 (1.) The Thorough Drainage or Main Drainage of Land:
 (2.) Reclaiming of Land from tidal or other Waters:
 30 (3.) Protection of Land by Embankment from tidal or other Waters:
 (4.) Reclaiming Bog Land, or reclaiming or inclosing Waste Land:
 (5.) Subsoiling by Manual Labour:
 (6.) Irrigation:
 (7.) Clearing Land of Rocks or Stones:
 35 (8.) Making Roads or Fences:
 (9.) Erection of Farm Buildings, Houses for Stewards, Labourers,
 or other Persons employed in superintending the Cultivation
 of or in cultivating Land, and of other Buildings for Farm
 Purposes:
 40 (10.) The Renewal or Reconstruction of any of the foregoing
 Works, or such Alterations therein or Additions thereto as
 are not required for maintaining the same, and increase
 durably their Value.

*Mode of
Application.*

XII. In order to obtain the Sanction of the Chairman to Improvements proposed to be made, the Limited Owner shall lodge with the Clerk of the Peace a Statement of the Particulars of the intended Improvements, the proposed Manner of effecting such Improvements, the estimated Expense of effecting the same, a Description of the 5 Lands proposed to be charged, and the Name and Residence of the Successor, and such other Particulars as may be required by the Chairman for the Purpose of enabling him to decide upon the Propriety of sanctioning such Improvements.

*Clerk of the
Peace to
give Notice
of State-
ment.*

XIII. Upon the Receipt of such Statement, the Clerk of the 10 Peace shall serve Notice thereof on the Successor, and shall name in such Notice a Time and Place at which the Chairman will be prepared to make an Order sanctioning such Improvements, unless Cause is shown to the contrary at the Time and Place named, or at some other Time and Place, of which Notice may be served on 15 the Successor, and shall, at the Expense of the Limited Owner, cause the same to be advertised in some Newspaper published in or circulating in the County in which such Lands or any Part thereof are situate.

*Duty of
Court on
Application.*

XIV. Previously to giving his Sanction, the Chairman shall hear 20 the Successor, or any one appearing on his Behalf, and objecting to such Improvements, or if no Appearance is made on behalf of the Successor, he shall require Proof of the Notice having been duly served on him: The Chairman may also, if he think fit, make such Inquiries by means of Valuation Commissioners, Surveyors, or others 25 to be appointed by him, as to the Circumstances of the Land on which the Improvements are to be made, and as to the Parties interested therein as Incumbrancers or otherwise, and direct such further Notices to be given as he thinks necessary to enable him to form a Judgment as to the Propriety of giving his Sanction, and shall 30 have Power to order the Expense of such Inquiries to be paid by the Limited Owner.

*Chairman
may sanction
Improvements.*

XV. If the Chairman decide that the Improvements as proposed, or as modified by him, are beneficial to the Parties principally interested in the Lands on which such Improvements are made, and that the 35 Estimate of Expenditure is fair, and that the Expense of One or more of the proposed Improvements does not, regard being had to the Circumstances of the Estate, bear an undue Proportion to the whole Expense allowed by the Act to be expended on Improvements, and that the Lands proposed to be charged ought to bear such Charge, 40 he shall make an Order giving his Sanction thereto.

XVI. Upon

XVI. Upon obtaining such Sanction as aforesaid, the Limited Owner may proceed to make the Improvements sanctioned; but the Successor, or any Person authorized by him in Writing, may inspect the same during the Progress thereof.

Power of Successor to inspect.

XVII. Upon the Completion of the Improvements the Limited Owner shall lodge with the Clerk of the Peace a Statement verified by Affidavit, sworn before some Justice of the Peace or before the Chairman, of the Expenditure that has been incurred, to an Amount not exceeding the Estimate of Expenditure sanctioned by the Chairman, and a Description of the Lands intended to be charged with an Annuity in respect of such Expenditure.

Statement of Expenditure to be lodged with the Clerk of the Peace.

XVIII. Upon the Receipt of such Statement, the Clerk of the Peace shall give Notice thereof to the Successor, and shall name in such Notice a Time and Place at which the Chairman will be prepared to make his Order, charging the Lands mentioned in the Statement with such Annuity as is herein-after mentioned, unless Cause is shown to the contrary at the Time and Place named, or at some other Time and Place of which Notice may be served on the Successor, and shall, at the Expense of the Limited Owner, cause the same to be advertised in some Newspaper published in or circulating in the County in which the Lands or any Part thereof are situate.

Clerk of the Peace to advertise Statement.

XIX. Previously to making such Order, the Chairman shall hear the Successor, or any Person appearing on his Behalf, and objecting that the Improvements have not been properly executed, or that the Money stated has not actually been expended in the Improvements, or if no Appearance is made on behalf of the Successor he shall require Proof of the Notice having been duly served: He may direct Inquiries to be made by Valuation Commissioners, Surveyors, or others as to the Execution of the Improvements and the Expenditure thereon, and may, if he thinks it just, disallow the whole or any Portion of the Expenditure; but if satisfied that the whole or any Portion of the Expenditure ought to be allowed, he shall make an Order specifying the Amount of Expenditure allowed, and charging the Lands mentioned in the Order with an Annuity of Seven Pounds Ten Shillings for every One hundred Pounds of such Expenditure, and so in proportion for any less Sum, to commence from the Date of the Order, and to be payable for a Term of Twenty-five Years, on each Anniversary of such Date, to the Limited Owner, his Executors, Administrators, or Assigns.

Chairman to make Charging Order.

XX. As soon as the Chairman has made the Order charging any Land with an Annuity under this Act, he shall execute a Duplicate thereof

Registry of Charging Order.

thereof and the Person applying for such Order may cause the Duplicate to be registered in the Office for Registry of Deeds in the City of Dublin, and the Registrar of the Registry Office, his and their Affidavit, Deputies, and other Officers, shall be required upon Proof by Assistant, of the Signature of the Chairman to register the same in the same Manner as any Deeds or Instruments are registered in the said Office, and to enter a Memorial thereof in the Abstract Books and Indexes of or relating to Memorials registered and kept in the said Office, subject to the Payment of such Fees as may now be lawfully demanded.

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Death of
Limited
Owner.

XXI. If any limited Owner dies, becomes bankrupt or insolvent, after he has obtained an Order sanctioning any Improvements, but before he has obtained an Order charging the Estate with such Annuity as is herein-after mentioned, his personal Representatives or Assigns may complete the Improvements at the Expense of the Estate of such deceased Bankrupt or Insolvent Owner, and thereupon they shall be entitled to the same Annuity as such Owner would have been entitled to if he had not died, become bankrupt or insolvent.

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Nature of
Annuity.

XXII. Every Annuity created under this Part of this Act shall, from the Date of the Registry of the Order creating the same, be a first Charge on the Estate and Interest of every Person taking by virtue of the same Settlement any Estate or Interest on the Lands mentioned in the Order in Defeasance of or on the Determination of the Estate of the limited Owner.

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Maintenance
of Improve-
ments.

XXIII. All Improvements in respect of which an Annuity is payable under this Part of this Act shall, during the Continuance of the Estate of the Limited Owner, be maintained by him in a proper State of Repair, reasonable Wear and Tear excepted, and the Costs of such Maintenance shall be a Charge on the Annuity so created, and any subsequent Owner of the Land charged with such Annuity may set off against any Amount of such Annuity for the Time being due any Damages he may have sustained by reason of the Non-compliance of the Limited Owner with the Provisions of this Section.

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PART II.

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LEASING POWERS.

Extended
Definition of
"Limited
Owner."

XXIV. The Expression "Limited Owner" as used in this Part of this Act shall, in addition to the Persons comprised under that Expression as herein-before defined, include any Body Corporate, any

any Corporation Sole, Ecclesiastical, or Lay, any Trustees for Charities, and any Commissioners or Trustees for ecclesiastical, collegiate, or other public Purposes, entitled, at Law or in Equity, in the Case of Freehold Land to the Fee Simple, and in the Case of

5 Leasehold Land to a Lease for an unexpired Residue of not less than Sixty Years, or for a Term of Years or of Lives renewable for ever, or renewable for a Period of not less than Sixty Years, but the Term "Successor" shall have the same Meaning as it has in the first Part of this Act.

10 XXV. Any Limited Owner shall have Power to grant Agricultural Leases, Improvement Leases, Building Leases, (including under the Term "Building Leases" "Repairing Leases,") for any Term of Years absolute, or determinable at fixed Periods, subject to the following Restrictions:

Power of Limited Owner to lease.

15 (1.) No Improvement Lease shall be valid without the Sanction of the Chairman:

(2.) No Building Lease comprising more than Three Acres, or reserving a Rent of more than One hundred Pounds per Year, shall be valid without the Sanction of the "Landed Estates Court, Ireland:"

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(3.) No other Building Lease shall be valid without the Sanction of the Chairman:

(4.) The Term of any Agricultural Lease shall not exceed Twenty-one Years, and of an Improvement Lease shall not exceed

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Forty-one Years:

(5.) Every Agricultural Lease shall contain a Covenant on the Part of the Lessee—

(1.) To manage, till, and use the Lands demised in due and regular Course of good Husbandry, so that the same be not in anywise injured or deteriorated:

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(2.) Not to burn, or permit to be burned, any Part of the Soil or Surface of the Lands demised, without the previous Consent in Writing of the Landlord:

(6.) Every Improvement Lease shall contain a Covenant on the Part of the Lessee—

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(1.) To execute at his own Expense, within a Time to be specified in such Lease, all or some of the Works defined to be Improvements under the Third Part of this Act:

40 (7.) Every Lease, whether an Agricultural, Improvement, or Building Lease, shall take effect in possession, and not in reversion, and there shall be reserved thereby the best yearly Rent, to

be incidental to the immediate Reversion, that can reasonably be gotten, without taking anything in the Nature of a Fine, Premium, or Foregift :

- (8.) Every Lease, whether an Agricultural, Improvement, or Building Lease, shall contain a Condition of Re-entry for Nonpayment of the Rent thereby reserved : 5
- (9.) Every Lease, whether an Agricultural, Improvement, or Building Lease, that includes any Building, shall contain a Clause declaring whether the Landlord or the Tenant is bound to rebuild such Building in the Case of the same being destroyed during any Part of the Tenancy by Fire, Lightning, or Tempest. 10
- (10.) The Lessee or Lessees shall execute a Counterpart of every Lease, whether an Agricultural, Improvement, or Building Lease, and shall thereby covenant for the due Payment of the Rent reserved : 15

Provided, firstly, that in the Case of an Improvement Lease the best Rent shall be deemed to be the highest Rent that can reasonably be gotten, having regard to the Improvements covenanted to be made by the Lessee ; secondly, that in the Case of a Building Lease a Peppercorn Rent, or any smaller Rent than the Rent to be ultimately made payable, may be reserved during all or any Part of the first Five Years of the Term granted by such Lease ; thirdly, that the Execution of any Lease by the Lessor shall be deemed sufficient Evidence that a Counterpart of such Lease, as required by this Act, has been executed by the Lessee. 25

Mode of
obtaining the
Sanction of
Court.

XXVI. In order to obtain the Sanction of the Chairman of the Quarter Sessions of the County or of the " Landed Estates Court, Ireland " (both which Tribunals are hereinafter included under the Term " Court ") to any Lease requiring such Sanction, the Lessor may submit to the Court, in such Manner as the Court may direct, a Copy of the proposed Lease, together with such Particulars as may be required by the Court for the Purpose of enabling it to decide upon the Propriety of giving its Sanction: 30

Duty of
Court on
Application

XXVII. Previously to giving its Sanction, the Court shall make such Inquiries as to the Circumstances of the Land proposed to be leased and of the Parties interested therein as it thinks fit, and in the Case of a Lease proposed to be granted by an individual Limited Owner, shall cause Notice thereof to be served on the Successor and such other Persons, if any, as it thinks just. It shall hear all Persons interested in the Land who may apply to it to be heard. It may disapprove altogether, or may approve either with or without Modification 40

fication, of the Lense proposed, but if the Court approve of the Lense it shall give its Sanction thereto by Order thereon, or in such other Manner as it thinks fit; and it may make such Order respecting the Costs of the Application as shall seem to it to be just.

- 5 XXVIII. Any Lease granted in pursuance of this Act by an individual Limited Owner shall be valid against the Person granting the same, and against all Persons claiming under the same Settlement any Estate or Interest subsequent to the Estate or Interest of such Limited Owner, and any Lease granted in pursuance of this Act
10 by any Limited Owner, being a Body Corporate, Corporation Sole, Trustees for Charities, Commissioners or Trustees for ecclesiastical, collegiate, or other public Purposes, shall bind all the Estate and Interest of such last-mentioned Limited Owner.

Effect of
Lease.

- 15 XXIX. No Lease shall be granted under this Act of any Mansion House or Demesne Lands, except for the Term of the Minority of the Person for the Time being entitled in possession to such House and Lands, and with due Regard to the Preservation and Maintenance in a proper State of Repair of such House or Lands

Prohibitions
as to Man-
sions and
Demesne
Lands.

- 20 XXX. All Powers of leasing given by this Act shall be deemed to be in addition to any other Powers any Limited Owner may possess, and such Owner may exercise any other Power of leasing vested in him in the same Manner as if this Act were not passed.

Powers of
Act to be
cumulative.

PART III.

TENANTS IMPROVEMENTS.

- 25 XXXI. This Part of this Act shall apply only to Land let for Agricultural Purposes.

Application
of Part of
Act.

XXXII. The Word "Tenant" as used in this Part of this Act shall mean a Tenant from Year to Year, and shall include the personal Representatives of such Tenant.

"Tenant."

- 30 XXXIII. The Word "Owner" as used in this Part of this Act shall mean any Person, or Body of Persons, corporate or unincorporate, having an Estate in Land equal to the Estate by the First and Second Parts of this Act required to constitute a limited Owner, or having a greater Estate than such limited Owner.

"Owner."

- 35 XXXIV. Any Tenant of Lands may, upon Compliance with the Provisions herein-after contained, make such Improvements thereon

Tenant en-
titled to
Compensa-
as

tion for
Improvements.

as are herein-after mentioned, and upon the Completion thereof shall be entitled, by way of Compensation for his Outlay, to an Annuity of such Amount and to be charged in such Manner as is herein-after mentioned on the Lands on which the Improvements have been made, and any other Lands lying together with the first-mentioned Lands, 5 and held of the same Owner, with this Exception, that no Tenant shall be entitled to Compensation under this Act in respect of any Improvements which the Owner might have compelled him to make in pursuance of any Contract or Custom.

Definition of
"Improvements."

XXXV. The Expression "Improvements," as used in this Part of 10 this Act, shall comprise the following Works; (that is to say,)

- (1.) The Thorough Drainage or Main Drainage of Lands :
- (2.) Reclaiming Bog Land, or reclaiming or inclosing Waste Land :
- (3.) Clearing Land of Rock Stones :
- (4.) The making Farm Roads or Fences : 15
- (5.) Subsoiling by Manual Labour ;
- (6.) Irrigation :
- (7.) Protection of Land by Embankment from Inland Waters :
- (8.) The Erection of Farmhouse or any Building for Agricultural Purposes suitable to the Holding, or the enlarging or the 20 extending of any such Farmhouse or Building erected or to be erected thereon, so as to render the same more suitable to the Holding :
- (9.) The Renewal or Reconstruction of any of the foregoing Works, or such Alterations therein or Additions thereto as 25 are not required for maintaining the same, and increase durably their Value.

Agreement
with or
Notice to
Owner.

XXXVI. It shall be lawful for any Owner, notwithstanding the Terms of any Settlement, to agree with the Tenant for the Execution of such Improvements by the Tenant, and in the Absence of such 30 Agreement it shall be lawful for any Tenant, previously to making any such Improvements, to serve on the Owner or his Agent a Notice under his Hand, stating the Particulars of the intended Improvements, the proposed Manner of effecting such Improvements, the estimated Expense of effecting the same, a Description of the Land 35 proposed to be charged, and the Time, being not less than Three Months from the Date of such Notice, at which he proposes to commence such Improvements.

Consent of
Owner.

XXXVII. The Owner may, within Three Months after the Service of such Notice, give Notice in Writing to the Tenant that he dis- 40 approves of such proposed Improvements, or any Part thereof, and

no Tenant who has received such Notice shall be entitled to commence any Improvements from which the Owner has so dissented.

XXXVIII. Upon the Completion of the Improvements, the Tenant shall lodge with the Clerk of the Peace of the County where such Land lies a Statement of the Expenditure that has been incurred, not exceeding the Amount stated in the Agreement or in the Notice served on the Owner, and a Description of the Lands intended to be charged with an Annuity in respect of such Expenditure, being the whole or Part of the Land described in the Agreement or in the Notice served on the Owner.

Statement of Expenditure to be lodged with the Clerk of the Peace.

XXXIX. Upon the Receipt of such Statement the Clerk of the Peace shall serve Notice thereof on the Owner or his Agent, and shall insert in such Notice a Statement of the Time and Place at which the Chairman will be prepared to make his Order charging the Lands mentioned in the Statement with such Annuity as is hereinafter mentioned, unless Cause is shown to the contrary at the Time and Place named, or at some other Time and Place of which Notice may be served on the Owner or his Agent.

Clerk of the Peace to give Notice to Owner.

XL. Previously to making such Order the Chairman shall hear the Owner, or any Person appearing on his Behalf, and objecting to such Certificate on the Grounds that the Improvements have not been properly executed, or that the Money stated has not actually been expended in the Improvements, or that the Lands proposed to be charged, or a Portion of such Lands, are not Lands subject to be charged in pursuance of this Part of this Act, and if no Appearance is made on behalf of the Owner he shall, previously to making his Order, require Proof of Notice having been duly served on the Owner or his Agent: The Chairman may make Inquiries by Valuation Commissioners, Surveyors, or other competent Persons as he may think right, and may direct the Expenses of such Inquiries to be paid by such Person and in such Manner as he may think fit, and may, if he thinks it just, disallow the whole or any Portion of the Expenditure, and may exclude any Lands that appear to him not chargeable under this Part of this Act; but if satisfied that the whole or any Portion of the Expenditure ought to be allowed, he shall make a Provisional Order specifying the Amount of Expenditure allowed, and charging the Lands mentioned in the Order with an Annuity of Seven Pounds Two Shillings for every Hundred Pounds of such Expenditure, and so in proportion for any less Sum; such Annuity to be limited in favour of the Tenant, his Executors, Administrators, or Assigns, and to be declared to be payable for a Term of Twenty-five Years, commencing from the Date of the Order, on each Anniversary of such Date;

Hearing of Case.

subject to this Proviso, that no Payment in respect of such Annuity shall accrue due until such Provisional Order has been made absolute.

Labour of
Tenant to
be taken
into account.

XL.I. Where any Improvement, under this Part of this Act, is effected wholly or partially by the Labour of the Tenant or his Family, the Value of such Labour shall be deemed to be Part of the Expenditure incurred in making the Improvement, and may be taken into account accordingly.

Maintenance
of Improve-
ments.

XL.II. All Improvements in respect of which an Annuity is payable under this Part of this Act shall, during such Time as intervenes between the Date of the Provisional Order and the Date at which such Order is made absolute, in manner herein-after mentioned, be maintained by the Person who has made the same, his Executors, Administrators, or Assigns, in a proper State of Repair, reasonable Wear and Tear excepted.

Order how
made abso-
lute.

XL.III. In the event of the Tenant in whose Favour a Provisional Order has been made being turned out of the Tenancy by the Owner, or by any Person claiming by, through, under, or in trust for him, or any Person claiming any Estate or Interest under the same Settlement as the Owner subsequent to the Estate of the Owner for the Time being, before the Expiration of the Term of Twenty-five Years mentioned in the Provisional Order, he may apply to the Chairman to make the Provisional Order absolute, and the Chairman shall make the same absolute as from the Date at which the Tenant has been turned out of the Tenancy; and upon such Order being made absolute the Annuity charged thereby shall forthwith become payable to the Tenant for the unexpired Residue of the Term of Twenty-five Years in the Order mentioned, together with a proportionate Part thereof for such Period, if any, as may intervene between the Time at which the Tenant is turned out of his Tenancy and the First Day appointed for Payment thereof by the Order.

Notice to be
given to
Owner of
Application
for Order
Absolute.

XL.IV. No Provisional Order under this Act shall be made absolute by any Chairman, unless the Owner for the Time being whose Lands are proposed to be charged thereby or some Person duly authorized on his Behalf appears before him, or Proof is given to the Chairman that Fourteen Days previous Notice at the least of the Intention of the Tenant to make the Application for an Order Absolute has been served on such Owner or his Agent in manner in which Notices are hereby required to be served, and the Chairman shall hear such Owner or any other Person appearing on his Behalf, and contending that the Tenant is indebted to him for Arrears of Rent or Taxes or in respect of a Breach of Contract, or of the not having maintained

in

in a proper State of Repair the Improvements for which he claims the Annuity, and any Sums in which the Tenant may be so proved to be indebted to the Owner shall be set off against the Annuity payable to the Tenant, and the Chairman in making the Order absolute shall specify how such Set-off is to be carried into effect, and what Abatement is to be made in the Annuity on account of such Debts.

XLV. If any Tenant dies, becomes bankrupt or insolvent, before he has completed any such Improvements as he is herein-before authorized to complete, his personal Representatives or Assignees may complete the Improvements at the Expense of the Estate of such deceased bankrupt or insolvent Tenant, and thereupon shall become entitled to the same Annuity as such Tenant would have been entitled to if he had died, become bankrupt or insolvent.

Death of
Tenant.

XLVI. Every Annuity created in pursuance of this Part of this Act shall be a Charge on the Estate of the Owner in the Lands comprised in the Order and on the Estate of every Person claiming by, through, under, or in trust for such Owner, or if the Land is in Settlement, taking any Estate in such Lands subsequent to the Estate of such Owner and under the same Settlement, subject to all Encumbrances on the Land subsisting at the Date of the Provisional Order, but having Priority over all Encumbrances subsequently created by the Owner or by any Person claiming by, under, or in trust for him, or if the Estate is in Settlement, taking any Estate under the same Settlement subsequent to the Estate of the Owner; and for the Purposes of this Section, the Order Absolute shall be deemed to relate back to the Date of the Provisional Order, and the Word "Owner" as used in this Section shall mean the Person who may be Owner at the Date of the Provisional Order being made.

Nature of
Annuity.

XLVII. The Clerk of the Peace shall keep an alphabetical Registry in his Office of all Provisional Orders and Orders Absolute made by the Chairman of which he is Clerk in pursuance of this Part of this Act, and shall allow any Person to inspect the same at all reasonable Times on the Payment of One Shilling.

Registry of
Orders
to be kept by
Clerk of the
Peace.

PART IV.

GENERAL PROVISIONS.

XLVIII. No Land shall be charged with Annuities in respect of Improvements under the First Part of this Act to the Extent of more than One Fifth Part of the annual Value of such Land, or in respect of Improvements under the Third Part of this Act to the

Restriction
of maximum
Amount of
Charges.

[172.]

B 3

Extent

Extent of more than One Fifth Part of the annual Value of such Land; and for the Purposes of this Section the annual Value of Land shall be deemed to be the Value at which such Land is rated under the Laws for the Relief of the destitute Poor.

Recovery of Annuity.

XLIX. Every Annuity created in pursuance of this Act shall 5 be recoverable in manner in which Rentcharges in lieu of Tithes are recoverable in Ireland.

Provision as to Arrears of Annuity.

L. No Arrears of any Annuity charged on Land in pursuance of this Act shall be recoverable after the Expiration of One Year from the Date at which the Sum in arrear became due; and as 10 between Owners having a limited Interest in any Land so charged it shall be the Duty of the Owner for the Time being in possession or in receipt of the Rents and Profits of such Land to prevent such Arrears arising, and if he make Default in doing so, and the Owner next entitled in possession pay any Arrears caused by such Default, 15 the Amount so paid shall be a Debt due by the Owner who has paid the same from the Owner by whose Default it became necessary to make such Payment.

Charge not to preclude Trustees from investing in Purchase or on Mortgage of Land charged.

LI. A Charge on Lands made by virtue of this Act shall not be deemed such an Incumbrance as to preclude a Trustee holding 20 Trust Moneys capable, according to his Trust, of being invested in the Purchase or on Mortgage of Lands, from investing the same in the Purchase of or upon a Mortgage of the Lands so charged, unless the Terms of his Trust expressly provide that the Lands to be so purchased or taken on Mortgage are not to be subject to any 25 prior Charge.

Service of Notices.

LII. Any Notice or other Document required by this Act to be served upon any Person may be served on such Person personally, or by leaving the same or sending it through the Post in a prepaid registered Letter addressed to such Person at his usual or last known 30 Place of Abode.

Rules as to Notices by Post.

LIII. Any Document to be served by Post shall be posted in such Time as to admit of its being delivered in the due Course of Delivery within the Period (if any) prescribed for the Service thereof, and in proving Service of such Document it shall be sufficient to prove that 35 such Document was properly directed, and that it was put as a prepaid registered Letter into the Post Office.

An Order to be Evidence of Court.

LIV. An Order made in pursuance of this Act, charging an Annuity on any Lands or sanctioning any Lease shall be, both at Law and in Equity,

Equity, conclusive Evidence that all Notices, Acts, and Proceedings by this Act directed with reference to or consequent on the obtaining such Order or the making such Charge, have been duly served, done, and taken, and that such Charge has been duly created, and
5 that it is a valid Charge on the Lands declared to be subject thereto.

phases with
Act.

LV. The "Landed Estates Court of Ireland" shall fix a Scale of Fees to be taken in respect of Business done by that Court under this Act, and shall, as to Matters within their Jurisdiction, make Regulations as to the Payment of such Fees, and as to the Conduct of
10 Proceedings under this Act before the Landed Estates Court, and as to the Costs payable in respect of such Proceedings, and as to the Taxation of such Costs; but such Scale and Regulations shall not be of any Validity until they have been sanctioned by the Lord Chancellor of Ireland.

Power of
Landed
Estates
Court to
make Reg-
ulations.

15 LVI. The Chairmen of the Quarter Sessions of the several Counties in Ireland, or any Fifteen of them, shall prepare forms of Notices and fix a Scale of Fees to be taken by Clerks of the Peace in respect of Business done by them under this Act, and shall make Regulations as to the Payment of such Fees, and as to the Conduct of Pro-
20 ceedings under this Act before such Chairmen, and as to the Costs payable in respect of such Proceedings, and as to the Taxation of such Costs; but such Scale and Regulations shall not be of any Validity until they have been sanctioned by the Chief Justice of the Queen's Bench in Ireland, by the Chief Justice of the Common
25 Pleas in Ireland, and by the Chief Baron of the Exchequer in Ireland, or by Two of such Judges.

Power of
Chairmen to
make Reg-
ulations.

LVII. Nothing in this Act contained shall be deemed or construed to affect or prejudice any Usage or Custom established or existing in any Part of Ireland relating to outgoing or incoming Tenants.

Saving
Rights.

Tenure and Improvement
of Land (Ireland).

A

B I L L

[AS AMENDED IN COMMITTEE.]

To amend the Law relating to the
Tenure and Improvement of Land in
Ireland.

(Proposed and brought in by
Mr. Cardwell and Mr. Attorney General for
Ireland)

Ordered, by The House of Commons, to be Printed,
18 June 1854.

[BILL 172.]

Under 2 c2.